

REMARKS

The present application is directed to a method of producing a protective immune response in a mammal by administering to the lung of the mammal an aerosol containing biodegradable microspheres that include a non-living reagent that produces a protective immune response in a mammal to which it is administered.

Upon entry of the foregoing amendment, Claims 17-25 and 27 will be pending. Claims 1-16 and 26 have been canceled without prejudice. Claims 17 and 25 are amended. No new matter is added as a result of this amendment.

Request for withdrawal of finality

The Examiner indicated that the Office Action mailed December 12, 2007 was a final rejection. Applicants respectfully request that the Examiner withdraw the finality of the rejection to allow applicants an opportunity to revise the language of the claims to overcome a rejection that was not previously raised.

In the Response filed October 1, 2007, applicants incorporated the limitations of Claim 1 into Claim 17. The Examiner had not objected to the language of either Claim 1 or Claim 17 in any previous Office Action. Therefore, the rejection of amended Claim 17 is a new rejection that applicants have not had a chance to previously address.

Rejection under 35 USC §112, second paragraph

In the Final Office Action mailed December 12, 2007, the Examiner rejected Claims 17-27 under 35 U.S.C. 112, second paragraph, as being indefinite.

Applicants respectfully submit that the amendments to the claims overcome the rejection. Claim 17 is amended herein to recite that administration to the lung of a mammal of an aerosol containing biodegradable microspheres having an average diameter of from 0.5 to 5 μm comprising a non-living reagent that produces a protective immune response **against the pathogen** in the mammal to whom it is administered. This administration leads to the desired protective response in the mammal. Support for the above amendment can be found on, at least, page 7, lines 6-11 of the original application. Applicants respectfully submit that

Claims 18-25 and 27 depend directly or indirectly from Claim 17 and are therefore definite based on the amendments to Claim 17, as provided herein.

Applicants respectfully submit that Claim 26 is cancelled herein and that the rejection of Claim 26 is therefore moot.

For at least the foregoing reasons, applicants respectfully request withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

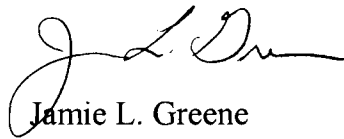
CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed December 12, 2007.

Applicants assert that the claims are in condition for allowance and respectfully request that the application be passed to issuance. If the Examiner believes that any informalities remain in the case that may be corrected by Examiner's amendment, or that there are any other issues which can be resolved by a telephone interview, a telephone call to the undersigned agent at (404) 745-2473 is respectfully solicited.

No additional fees are believed due; however the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account number 11-0855.

Respectfully submitted,



Jamie L. Greene
Reg. No. 32,467

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309-4530
Tel. (404) 815-6500
Attorney Docket No. 41577-317929 (P215)